

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

VICTOR DESPORT and TINA DESPORT,
his wife,

CIVIL DIVISION

Plaintiffs,

vs.

Case No. 4927 of 2019

COMPLAINT

ADESA PENNSYLVANIA, L.L.C., d/b/a
ADESA PITTSBURGH, ADESA CORPORATION,
d/b/a ADESA AUCTIONS PITTSBURGH,

Defendants.

Filed on behalf of PLAINTIFFS
Victor Desport and Tina Desport

Counsel of Record for this Party:

Cindy Stine, Esquire
PA Supreme Ct. # 73180

STINE & ASSOCIATES, P.C.
206 North Main Street, Suite 3
Greensburg, PA 15601

Telephone: 724-837-0160
Fax: 724-832-8747

NOTICE TO PLEAD

TO: DEFENDANTS

You are hereby notified to file a written response to the enclosed COMPLAINT within twenty (20) days from the date of service hereof, or a judgment may be entered against you.

STINE & ASSOCIATES, P.C.

By: Cindy Stine
Cindy Stine, Esquire
JURY TRIAL DEMANDED

CERTIFICATE

I certify that this filing complies with the provisions of the *Case Records Public Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Cindy Stine
Cindy Stine, Esq. (PA ID No. 73180)

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Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYER REFERRAL SERVICE
WESTMORELAND COUNTY BAR ASSOCIATION
P.O. Box 565
GREENSBURG, PA 15601
724-834-8490

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Westmoreland County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

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ADESA PITTSBURGH, ADESA CORPORATION,
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Defendants.

COMPLAINT

AND NOW comes Plaintiffs Victor Desport and Tina Desport, his wife, by and through their counsel, Cindy Stine, Esquire, and Stine & Associates, P.C., and file this Complaint, as follows:

The Parties

1. Plaintiffs Victor Desport and Tina Desport, his wife, are adult individuals who reside on Main Street, Latrobe, Westmoreland County, Pennsylvania 15650.
2. The defendant ADESA PENNSYLVANIA, L.L.C., upon information and belief, is a Pennsylvania limited liability company with an address at 378 Hunker-Waltz Mill Road, New Stanton, Westmoreland County, Pennsylvania 15672.
3. The defendant ADESA CORPORATION., upon information and belief, is a Pennsylvania corporation with an address at 378 Hunker-Waltz Mill Road, New Stanton, Westmoreland County, Pennsylvania 15672.

4. Upon information and belief, Defendant ADESA PENNSYLVANIA, L.L. C. and Defendant ADESA CORPORATION (hereinafter “ADESA defendants”) regularly conduct business as ADESA Auctions Pittsburgh at 378 Hunker-Waltz Mill Road, New Stanton, Westmoreland County, Pennsylvania 15672.

5. Upon information and belief, at all material times hereto, the ADESA defendants, as ADESA Auctions Pittsburgh, conduct wholesale vehicle auctions to professional vehicle buyers and sellers.

FACTS

6. At all times material hereto, the ADESA defendants owned, controlled, operated, managed and maintained the business known as ADESA Auctions Pittsburgh, at its New Stanton location, where the events relevant to this cause of action occurred.

7. At all times material hereto, the ADESA defendants’ vehicle auction was open to professional vehicle buyers and sellers for the purchase of its inventory of used motor vehicles.

8. At all times relevant hereto, the ADESA defendants were responsible for the safety of their customers, including plaintiff Victor Desport, and as such, owed a duty of care to provide a reasonably safe environment for their customers to view and purchase motor vehicles.

9. At the ADESA auto auction in New Stanton, vehicles for sale are driven through lanes in the facility. Defendants’ drivers drive the vehicles through the lanes, and prospective buyers and sellers stand near the white lines which delineate the lanes to view the cars.

10. At all times relevant hereto, defendants acted by and through their agents, servants and/or employees, each of whom acted within the course and scope of their employment and/or authority with and for defendants in the operation of their auto auction.

11. At all times relevant herein, defendants were responsible for hiring, recruiting and training their employees, agents and servants in the safe operation of driving cars through the auction lanes.

12. At all times relevant hereto, Plaintiff Victor Desport was lawfully present on defendants' premises as a business invitee.

13. On or near October 24, 2017, between 10:00 a.m. and 11:00 a.m., Plaintiff Victor Desport was at the ADESA Auto Auction in New Stanton to purchase vehicles for the car dealership he was employed by.

14. As Plaintiff and other prospective buyers were standing near one of the lanes at the entry end, waiting for the cars to drive through, plaintiff was talking with another buyer who was standing beside him. Plaintiff's back was to the lane and the other buyer was facing the passenger side of the cars as they come in.

15. As plaintiff and the other buyer stood by the lane, waiting for the cars to drive through, suddenly the other buyer grabbed ahold of plaintiff and yanked him from where he was standing in an attempt to prevent him from being hit by a car that was driving too far to the side of the lane where they were standing.

16. Despite the other buyer's efforts to yank plaintiff away from the vehicle, the vehicle struck plaintiff on the back, hip and leg.

17. As a direct and proximate result of the incident as described above from defendant's negligence, recklessness and/or carelessness, plaintiff sustained injuries and trauma, some or all of which are or may be of a permanent nature, causing him great pain and suffering, including but not limited to:

- a. a left hip acetabular labrum tear and aggravation of underlying asymptomatic left hip arthritis, resulting in surgery;
- b. bilateral hip pain and groin pain;
- c. pain, swelling and aggravation of underlying right ankle arthritis;
- d. right knee arthralgia;
- e. low back pain and stiffness, aggravation of underlying stenosis;
- f. an antalgic gait and limited mobility;
- g. shock to the nerves and nervous system; and
- h. a right shoulder injury and surgery from falling due to the left hip and back injuries.

18. As a result of his injuries, plaintiff has sustained the following damages, and may continue to suffer the same for an indefinite period of time into the future:

- (a) He has suffered and will suffer great pain, suffering, inconvenience, humiliation, embarrassment, mental anguish and loss of life's pleasures;
- (b) He has and will be required to expend sums of money for medical attention, surgeries, hospitalizations, medical supplies, physical therapy and attendant services;
- (c) His general health, strength and vitality have been impaired;
- (d) He has been unable to enjoy the ordinary pleasures of life; and
- (d) He suffered past, present and future loss of earnings and his earning capacity has been permanently impaired.

**Count I – Negligence
Victor Desport vs. ADESA defendants**

19. Plaintiffs incorporate paragraphs 1 through 18 as if set forth fully herein.

20. Plaintiffs believe, and therefore aver, that at all times relevant and material hereto, the driver of the vehicle that struck plaintiff acted as the employee, agent, servant, worker and/or contractor of the ADESA Defendants.

21. Plaintiffs believe, and therefore aver, that any and/or all of the reckless, negligent and/or careless acts and/or omissions of the driver that struck plaintiff Victor Desport, as alleged herein, occurred while the driver was acting within the course and/or scope of his employment and/or agency with the ADESA Defendants.

22. The negligence, recklessness and/or carelessness of the ADESA defendants, by and through their agents, servants and employees, acting as aforesaid, consisted of the following:

- a. in failing to ensure that defendants' premises was safe for customers to inspect and view the motor vehicles that were for sale;
- b. In striking plaintiff;
- c. In failing to keep a safe, careful and adequate lookout of the pedestrian traffic around him;
- d. In failing to pay safe and careful attention to the travel lane and surrounding pedestrian traffic then and there existing;
- e. In failing to keep and maintain his vehicle under proper and adequate control;
- f. In operating his vehicle in a direction toward Plaintiff when he knew, or should have known, that he would strike plaintiff;
- g. In failing to promptly and properly apply the brakes of the vehicle so that the truck could be stopped in time to avoid striking plaintiff;
- h. In failing to maintain the vehicle under proper and adequate control;
- i. In failing to stop, slow down, move the vehicle or take other evasive action so as to avoid striking Plaintiff;

- j. In acting with a reckless disregard for the safety of others then and there standing along the driving lane, including Plaintiff;
 - k. In failing to have the brakes, steering, tires and other mechanisms of the vehicle in proper and safe working order;
 - l. In failing to bring his vehicle to a stop before striking Plaintiff;
 - m. In failing to keep the vehicle in its driving lane; and
 - n. In being otherwise careless, reckless and/or negligence, the particulars of which are presently unknown to Plaintiff, but which may be learned through discovery procedures provided by the Pennsylvania Rules of Civil Procedure or which may be learned at the trial of this case.
23. The aforesaid incident was due solely to the negligence, carelessness and/or recklessness of Defendants, acting as aforesaid, and was due in no manner whatsoever to any act of failure to act on the part of the Plaintiff.

WHEREFORE, Plaintiffs demands judgment against Defendants, in a sum in excess of the arbitration limits of the court of Common Pleas of Westmoreland County, Pennsylvania, together with all damages, delay damages, costs of suit and any other relief that this Honorable Court deems appropriate and to which Plaintiff is entitled as a matter of law.

COUNT II - RESPONDEAT SUPERIOR

PLAINTIFF VICTOR DESPORT v. The ADESA DEFENDANTS

24. Plaintiff incorporates paragraphs 1 through 23 as if set forth fully herein.
25. This count is predicated upon respondeat superior liability in the ADESA defendants' role as the employer of the driver of the motor vehicle that struck plaintiff.

26. The acts of negligence, careless and recklessness of the driver of the motor vehicle that struck plaintiff have been set forth in detail in Count I of this Complaint and are incorporated by reference as if set forth fully herein.

27. The ADESA Defendants, as the employer of the driver of the vehicle that struck plaintiff, are negligent *per se*, as it was responsible for the driver's conduct while operating its motor vehicle.

28. The motor vehicle driver was a permissive user of Defendants' vehicle and was operating it within the course and scope of his employment with Defendants.

29. Plaintiffs believe, and therefore aver, that at all times relevant hereto, the conduct of the driver, in operating a vehicle owned and/or controlled by Defendants, was caused, motivated and/or driven, in part, by a purpose to serve and/or benefit of Defendants, and/or to conduct business and/or other tasks for and/or on their behalf.

30. Plaintiff believes, and therefore avers, that Defendants are vicariously liable for any and/or all of the reckless, negligent and/or careless acts and/or omissions of the vehicle driver, as herein alleged, as well as for any and/or all of the consequences thereof, including but not limited to, the personal injuries sustained by Plaintiff, as described herein.

WHEREFORE, Plaintiffs demand damages of Defendants in an amount in excess of the arbitration limits of the County of Westmoreland, together with all damages, delay damages, costs of suit and any other relief that this Honorable Court deems appropriate and to which Plaintiff is entitled as a matter of law.

COUNT III - NEGLIGENT ENTRUSTMENT

PLAINTIFF VICTOR DESPORT v. The ADESA DEFENDANTS

24. Plaintiff incorporates paragraphs 1 through 23 as if set forth fully herein.
25. In addition to respondeat superior liability, the negligent and/or careless acts and/or omissions of the ADESA defendants consisted of, but were not limited to the following:
- a. Entrusting the motor vehicle that struck plaintiff to a driver for use when they knew, or in the reasonable exercise of due care, should have known that, on the date of the incident herein, the driver was incompetent, inexperienced and/or otherwise incapable of safely and properly operating the motor vehicle along the lanes at the auction;
 - b. Negligently and/or carelessly entrusting the vehicle to a person creating an appreciable risk of harm to all others, including Plaintiff;
 - c. Negligently and/or carelessly entrusting a motor vehicle to a person which they knew, and/or in the exercise of reasonable care, should have known, was going to drive the motor vehicle in an improper, negligent, careless, dangerous and/or reckless manner; and
 - d. In failing to adequately investigate the qualifications of the driver of the motor vehicle that struck plaintiff; and
3. In failing to properly train the drivers of the motor vehicles.

26. As a result of the negligent and/or careless acts and/or omissions of the ADESA defendants, as set forth above, Plaintiff Victor Desport sustained injuries and damages as set forth above.

WHEREFORE, Plaintiffs demands damages Defendants herein, in an amount in excess of the arbitration limits of the County of Westmoreland, together with all damages, delay damages, costs of suit and any other relief that this Honorable Court deems appropriate and to which Plaintiff is entitled as a matter of law.

COUNT IV - LOSS OF CONSORTIUM

PLAINTIFF TINA DESPORT v. THE ADESA DEFENDANTS

27. Paragraphs 1 through 26 are incorporated by reference as if set forth fully herein.

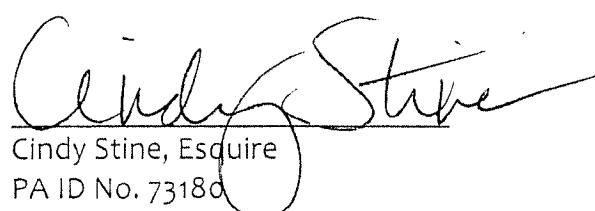
28. At all times relevant and material hereto Plaintiff Tina Desport is and was the wife of Plaintiff Victor Desport.

29. As a result of the aforesaid injuries to her husband, Victor Desport, plaintiff Tina Desport has lost and will lose the comfort, society, companionship, consortium, income and services of her husband.

WHEREFORE, Plaintiff Tina Desport claims damages against Defendants in an amount that exceeds the arbitration limits of the Court of Common Pleas of Westmoreland County, Pennsylvania, together with all damages, delay damages, costs of suit and any other relief that this Honorable Court deems appropriate and to which Plaintiff is entitled as a matter of law.

STINE & ASSOCIATES, P.C.

By:


Cindy Stine, Esquire
PA ID No. 73180

206 N. Main Street, Suite 3
Greensburg, PA 15601
724-837-0160

COUNSEL FOR PLAINTIFFS

COMMONWEALTH OF PENNSYLVANIA §

COUNTY OF WESTMORELAND §

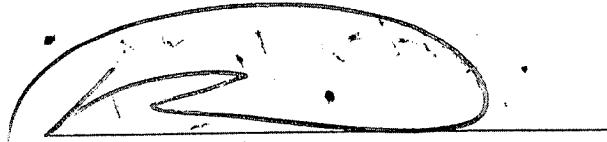
VERIFICATION

I hereby verify that the statements in the foregoing COMPLAINT_are true and correct to the best of my information, knowledge and belief. The statements in the attached document are based upon factual information that I have provided to my attorney of record, as well as that gathered by my attorney in the course of representing me.

The attached document has been prepared by my attorney, which contains language by my attorney. To the extent that the contents of the attached document exceeds the factual information which I provided to my attorney, I am relying upon the language by my attorney in signing this verification.

This statement and verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

Date: 4-1-2021



Victor Desport

Date: 4-1-2021



Tina Desport

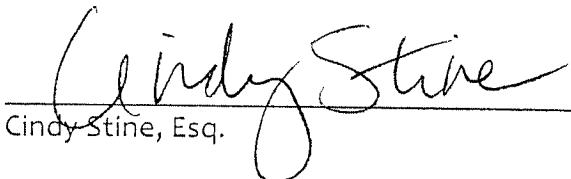
Certificate of Service

I, Cindy Stine, Esquire, counsel of record for Plaintiffs, hereby certify that I caused a true and correct copy of the foregoing COMPLAINT to be served upon all known parties and/or counsel of record this 25th day of October, 2021, via first class U.S. mail, postage prepaid, and/or e-mail, as set forth below:

ADESA PENNSYLVANIA, L.L. C
378 Hunker-Waltz Mill Road
New Stanton, PA 15672

ADESA CORPORATION
378 Hunker-Waltz Mill Road
New Stanton, PA 15672

Jim Dunn
CCMSI
550 West Van Buren St., Suite 1200
Chicago, IL 60607
Via email jdunn@ccmsi.com


Cindy Stine
Cindy Stine, Esq.